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| TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i> | | Application Number 10/590,560 |
| | | Filing Date August 24, 2006 |
| | | First Named Inventor Bernard Derek Frutin |
| | | Group Art Unit To be Assigned |
| | | Examiner Name To be Assigned |
| Total Number of Pages in This Submission | 8 | Attorney Docket Number 36290-0428-00-US (230211) |

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| ENCLOSURES (check all that apply) | | |
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Assignment Papers <i>(for an Application)</i> <input type="checkbox"/> Drawing(s) – Figs. <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC <i>(Appeal Notice, Brief, Reply Brief)</i> <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i> Submission of International Preliminary Report on Patentability |
| Remarks: | | |

| | |
|---|--------------------------------------|
| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | |
| Firm Name | Drinker Biddle & Reath LLP |
| Signature | |
| Printed Name | Robert E. Cannuscio, Reg. No. 36,469 |
| Date | October 10, 2006 |

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|--|------------------|
| CERTIFICATE OF MAILING UNDER 37 CFR 1.8 | |
| I hereby certify that this paper, along with any documents referred to as being enclosed therewith, is being deposited with the United States Postal Service in an envelope addressed to U.S. Patent Office, Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:. | |
| Typed or printed name | Laura M. McNeely |
| Signature | |
| Date: October 10, 2006 | |



PATENT

Attorney Docket No.: 36290-0428-00-US
(230211)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent application of :
Bernard Derek Frutin :
Appl.No.: 10/590,560 : Group Art Unit:
Filed: August 24, 2006 : To be Assigned
For: Apparatus for Controlling Flow Rate from : Examiner:
a Valve Dispenser : To be Assigned

SUBMISSION OF INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed herewith is an International Preliminary Report on Patentability (IPRP) issued in connection with the PCT application related to the present application.

Respectfully submitted,

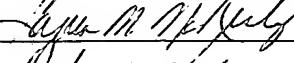
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**CERTIFICATE OF MAILING
UNDER 37 C.F.R. 1.8(a)**

I hereby certify that this correspondence, along with any paper referred to as being attached or enclosed, and/or fee, is being deposited with the United States Postal Service, on the date indicated below, as first class mail and addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By: 
Date: Oct. 12, 2006

PATENT COOPERATION TREATY

PCT/GB2005/000699

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION CONCERNING
TRANSMITTAL OF COPY OF INTERNATIONAL
PRELIMINARY REPORT ON PATENTABILITY
(CHAPTER I OF THE PATENT COOPERATION
TREATY)
(PCT Rule 44bis.1(c))

Date of mailing (day/month/year)
08 September 2006 (08.09.2006)

To:

MURGITROYD & COMPANY
165-169 Scotland Street
Glasgow G5 8PL
ROYAUME-UNI

Applicant's or agent's file reference
P36563A/NGR/GMU

IMPORTANT NOTICE

International application No.
PCT/GB2005/000699

International filing date (day/month/year)
24 February 2005 (24.02.2005)

Priority date (day/month/year)
27 February 2004 (27.02.2004)

Applicant

ROCEP LUSOL HOLDINGS LIMITED et al

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

| | | | |
|--|---|---|------------------|
| Applicant's or agent's file reference P36563A/NGR/GMU | FOR FURTHER ACTION | | See item 4 below |
| International application No. PCT/GB2005/000699 | International filing date (day/month/year) 24 February 2005 (24.02.2005) | Priority date (day/month/year) 27 February 2004 (27.02.2004) | |
| International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237 | | | |
| Applicant ROCEP LUSOL HOLDINGS LIMITED | | | |

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

| | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input checked="" type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.2).

Date of issuance of this report
30 August 2006 (30.08.2006)

| | |
|---|--|
| The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland | Authorized officer Nora Lindner e-mail: nl07@wipo.int |
| Facsimile No. +41 22 338 82 70 | |

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 12 OCT 2005

PCT
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To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION

See paragraph 2 below

International application No.
PCT/GB2005/000699

International filing date (day/month/year)
24.02.2005

Priority date (day/month/year)
27.02.2004

International Patent Classification (IPC) or both national classification and IPC
B65D83/14

Applicant
ROCEP LUSOL HOLDINGS LIMITED

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich

Authorized Officer

Augustin, W



WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/GB2005/000699

Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material:
 in written format
 in computer readable form
 - c. time of filing/furnishing:
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2005/000699

Box No. IV Lack of unity of invention

1. In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
 - paid additional fees.
 - paid additional fees under protest.
 - not paid additional fees.
2. This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is:
 - complied with
 - not complied with for the following reasons:

see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
 - all parts.
 - the parts relating to claims Nos. 1-20

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

| | | |
|-------------------------------|-------------|-----------------|
| Novelty (N) | Yes: Claims | 13, 18, 19 |
| | No: Claims | 1-12, 14-17, 20 |
| Inventive step (IS) | Yes: Claims | 13 |
| | No: Claims | 18, 19 |
| Industrial applicability (IA) | Yes: Claims | 1-20 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/GB2005/000699

Re Item IV

The subject-matter of independent claims 1, 20 and dependent claims 2-12 is already known (see Item V). The requisite unity of invention (Rule 13.1 PCT) therefore no longer exists inasmuch as a technical relationship involving one or more of the same or corresponding special (new and inventive) technical features in the sense of Rule 13.2 PCT does not exist between the subject-matter of the following groups of dependent claims:

- I: Claims 1-13, 20 directed to a valve assembly, dispensing apparatus comprising spacer means in the form of a rotatably mounted collar (figs. 1-7)
- II: Claims 14-19 directed to a valve assembly, dispensing apparatus comprising spacer means which limit the lateral movement (figs. 8-10)
- III: Claims 21-30 directed to a valve assembly, dispensing apparatus comprising spacer means provided on a lever that actuates the valve (figs. 11-18)

Re Item V

1.) subject-matter I:

- 1.1) The present application does not meet the criteria of Article 33(1) PCT, because **the subject-matter of claims 1-12, 20 is not new** in the sense of Article 33(2) PCT. [see **US-A-5 971 230** figs. 14-19, 24, 26 and column 11, line 43 to column 14, line 60, in particular valve (5), lever (46) integral with nozzle (41) and mounted to a rotated round hinge (44), variable spacer means (30), valve stem (7), spacer portions (37, 38, 39)]
- 1.2) Prior art does not disclose nor suggest a valve assembly according to claim 13 comprising a collar in the form of a clip having a radial slot.

2.) subject-matter II:

- 2.1) The present application does not meet the criteria of Article 33(1) PCT, because **the subject-matter of claims 1-6, 14-17, 20 is not new** in the sense of Article 33(2) PCT. [see **US-A-3 884 399** figs. 1,4, 8 in particular nozzle (t, ta) serving as a lever, spacer means (1-4), collar (a)]

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/GB2005/000699

2.2) The **dependent claims 18, 19** do not contain any additional features which, in combination with the features of any claim to which they refer, involve an inventive step since they come within the scope of the customary practice followed by persons skilled in the art [see **US-A-5 971 230** in particular collar (30) with equivalent recessed portions (figs. 20, 21) or a cam surfaces (figs. 16-19)].

Consequently, the subject-matter of claims 18, 19 lacks an inventive step (Rule 65(1)(2) PCT).

Re Item VIII

- 1.) The independent claims are not in the **two-part form** in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art [document **US-A-5 971 230** (subject-matter I); **US-A-3 884 399** (subject-matter II)] being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
- 2.) The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 3.) Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the **documents US-A-5 971 230** (subject-matter I) and **US-A-3 884 399** (subject-matter II) is not mentioned in the description, nor is this document identified therein.